

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Marshall Johnson  
Ken Nickolai  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Complaint of Desktop  
Media, Inc. Against Qwest Corporation  
Regarding Interconnection Terms

ISSUE DATE: August 2, 2004

DOCKET NO. P-421/C-02-1597

ORDER APPROVING SETTLEMENT  
AGREEMENT

**PROCEDURAL HISTORY**

On December 15, 2000, the Commission approved the interconnection agreement (ICA) between Desktop Media, Inc.(Desktop) and Qwest Corporation (Qwest) in Docket No. P-5934,421/IC-00-1509. Desktop opted into the AT&T-U S West Interconnection Agreement.

On September 24, 2002, Desktop filed a complaint against Qwest pursuant to Minn. Stat. § 237.462. The complaint alleged that Qwest violated the terms of the Interconnection Agreement (ICA) with Desktop, thus hindering Desktop's ability to compete in the market.

On October 28, 2002, the Commission referred this matter to the Office of Administrative Hearings for a contested case proceeding. Administrative Law Judge (ALJ) Richard C. Luis was assigned to the case.

On June 24, 2003, the ALJ submitted his Findings of Fact, Conclusions of Law, and Recommendation in this matter.

On October 2, 2003, the Commission issued its ORDER ADOPTING ALJ'S REPORT WITH MODIFICATIONS AND REMANDING TO OAH FOR FURTHER PROCEEDINGS.

On July 1, 2004, Qwest and Desktop filed a joint motion requesting that the Commission approve a settlement agreement and dismiss the complaint filed by Desktop.

On July 6, 2004, the Department of Commerce (DOC) filed comments indicating that the DOC did not oppose the Settlement Agreement proposed by the parties.

On July 9, 2004, the ALJ notified the Commission that he concluded that it was appropriate for the Commission to approve the Settlement Agreement and that approval was in the public interest.

On July 22, 2004, the matter came before the Commission.

## **FINDINGS AND CONCLUSIONS**

### **I. The Parties' Request**

The Settlement Agreement entered into by the parties requested that the Commission enter the following order:

It is hereby ordered that the complaint filed by Desktop shall be considered fully resolved and that this docket is hereby closed. Because the parties have resolved their differences and compromised various disputes that were not fully resolved in this Docket or by appeal, the ALJ's Findings of Fact, Conclusions of Law, and Recommendation and the Order Adopting ALJ's Report with Modifications and Remanding to OAH for Further Proceedings shall not be deemed to be final orders nor shall those recommendations or orders be deemed to impose any ongoing obligations on either Qwest or Desktop. Nothing in this Order will be construed to prevent any parties, including the Department, from raising any of the issues or arguments that were raised in this Docket, insofar as they may relate to any parties other than Desktop, nor to prevent the Commission from making any findings, determinations or orders as it may deem appropriate in any future or other proceeding.

The parties stated that they made this request because of the unusual procedural posture of this Docket, having been referred to the ALJ by the Commission on two occasions, with the ALJ issuing Findings of Fact, Conclusions of Law and Recommendation on June 24, 2003, and the Commission issuing its ORDER ADOPTING ALJ'S REPORT WITH MODIFICATIONS AND REMANDING TO OAH on October 2, 2004.

### **II. Commission Action**

Minnesota's Telecommunications Act encourages the voluntary settlement of disputes. Minn. Stat. § 237.076, subd. 1 states a general policy of settlements, and Minn. Stat. § 237.011 specifically encourages settlements "between and among competing providers," which is the situation herein.

The Commission has examined the settlement and concurs with the ALJ that it resolves the dispute between Qwest and Desktop on terms that are consistent with the public interest.

The Commission, in accepting this settlement and including the language requested by the parties, acknowledges the parties' concern for finality and finds that it is in the public interest to promote the settlement of this matter.

### **ORDER**

1. The Settlement Agreement between Qwest and Desktop is hereby approved.
2. It is hereby ordered that the complaint filed by Desktop shall be considered fully resolved and that this docket is hereby closed. Because the parties have resolved their differences and compromised various disputes that were not fully resolved in this Docket or by appeal, the ALJ's Findings of Fact, Conclusions of Law, and Recommendation and the Order Adopting ALJ's Report with Modifications and Remanding to OAH for Further Proceedings shall not be deemed to be final orders nor shall those recommendations or orders be deemed to impose any ongoing obligations on either Qwest or Desktop. Nothing in this Order will be construed to prevent any parties, including the Department, from raising any of the issues or arguments that were raised in this Docket, insofar as they may relate to any parties other than Desktop, nor to prevent the Commission from making any findings, determinations or orders as it may deem appropriate in any future or other proceeding.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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